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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/829,177	04/09/2001	John C. Goodwin III	9303.00	9228

7590

06/04/2003

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EXAMINER

LEE, DIANE I

ART UNIT

PAPER NUMBER

2876

DATE MAILED: 06/04/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 09/829,177	Applicant(s) GOODWIN, JOHN C.	
	Examiner D. I. Lee	Art Unit 2876	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 March 2003.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 13-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 13-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 April 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>7</u> . | 6) <input type="checkbox"/> Other:  |

### **DETAILED ACTION**

1. Receipt is acknowledged of the Amendment filed 24 March 2003. Claims 1-12 have been canceled and claims 13-18 are newly added. Currently, claims 13-18 are pending in this application.

### ***Drawings***

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the following claimed features must be shown or the feature(s) canceled from the claim(s):

(a) an optical transceiver for passing the laser beam and for collecting light reflected from an item, as recited in claims 13 and 15-17. No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 13 and 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnsen [US 5,151,684, previously cited by the applicant] in view of Lindacher [US 5,196,696-newly cited by the Examiner].

Johnsen discloses a system (see the abstract, and figures 3-4), comprising:

a bar code reader (scanner 50) included in a housing 52 suitable for operating within a checkout counter (a cash register 130, see figures 3-4 and 7);

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a computer 72, 76 as a control circuitry for determining whether bar code label information exists in the electrical signals and, if so, for determining first identification information from the bar code label information (see col. 7, lines 30-57);

a radio frequency product label interrogator 74, in the same housing, coupled to the bar code reader for transmitting a wireless interrogation signal to determine whether the item is labeled with a radio frequency product label (see figures 3-4 and 7);

a communication port (the connecting hardware that allows communications between the bar code reader 50, control circuitry, and the radio frequency product label interrogator 74) (see figure 2);

wherein the control circuitry obtains first identification information from the bar code reader and the radio frequency product label interrogator obtains second identification information from the item, i.e., if the item has a bar code label, obtaining the first identification information by the bar code reader; and if the item has a radio frequency product label, obtaining the second identification information by the radio frequency product label interrogator. Figure 7 shows the tag having both the bar code label and the radio frequency product label, identifying the item using both the first and second identification information (see col. 7, lines 14+; col. 9, lines 13+; and figures 4 and 7); and

wherein the control circuitry also generates output information including obtained identification information (see col. 7, lines 55+).

Johnsen is silent with respect to the specific claimed structure of the bar code reader.

Lindacher discloses a bar code reader 10 in the housing 40 suitable for mounting within a checkout counter (see figures 2 and 4), the bar code reader including

a laser 12 for generating a laser beam 26 (see figure 2);

an optical transceiver 46, 48 for passing the laser beam (i.e., the outgoing scan line 30) and for collecting light reflected from an item (i.e., incoming reflected light 32) (see figures 1-2);

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a rotating spinner 16, which serves as a mirrored polygon spinner, for directing the laser beam from the optical transceiver and directing the light reflected from the item to the optical transceiver (see col. 2, lines 35 and figures 1-2);

a plurality of pattern mirrors 18 for creating a scan pattern from the laser beam received from the rotating spinner 16 and for collecting the light reflected from the item (see col. 2, lines 41+ and figures 1-2); and

a photo-detector 24 for converting the light reflected from the item into electrical signals (see col. 2, lines 63+).

It would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to incorporate the bar code reader of Lindacher in the system of Johnsen in order to provide a counter rotating bar code reader that produce an omnidirectional pattern and capable of scanning bar code information on item having a wider range in size.

5. Claims 14 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnsen as modified by Lindacher as applied to claim 13 above, and further in view of Walter et al. [US 5,992,570-referred as Walter, previously cited by the applicant]. The teachings of Johnsen as modified by Lindacher have been discussed above.

Johnsen as modified by Lindacher fails to teach the system having a scale within the housing.

Walter teaches an item processing device having a bar code reader and a scale within the housing 16 for obtaining weight information for item sold by weight (see col. 4, lines 35+ and figure 1); wherein the output information includes obtained weight information (see col. 4, line 62-col. 5, lines 5 and figure 12).

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It would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to incorporate a scale within the housing, as taught by Walter, in the system of Johnsen as modified by Lindacher, in order to process items that do not carry a bar code, such as fruits and vegetables.

***Response to Arguments***

6. The Amendment filed 24 March 2003 does not include any arguments.

***Conclusion***

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

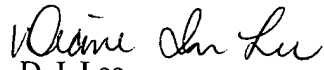
Any inquiry concerning this communication or earlier communications from the examiner should be directed to D. I. Lee whose telephone number is 703-306-3427. The examiner can normally be reached on Monday through Thursday from 5:30 AM to 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on 703-305-3503. The fax phone numbers for the organization where this

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application or proceeding is assigned are 703-308-7722 for regular communications and 703-308-7722 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

  
D. I. Lee  
Primary Examiner  
Art Unit 2876

D. L.  
May 27, 2003